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14 *Attorneys for United States*
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17 **IN THE UNITED STATES DISTRICT COURT**
18
19 **FOR THE DISTRICT OF ARIZONA**

20 Trevor Reid, et al.,
21 Plaintiffs
22 v.
23

24 United States Department of the Interior, et
25 al.,
26 Defendants.

27 No. CV-22-00068-PHX-SMB

28 **NOTICE OF SUBSTITUTION**

29 Please take notice that pursuant to the Federal Employee's Liability Reform and
30 Tort Compensation Act of 1988, §§ 5, 6, Pub. L. No. 100-694 (1988) (codified at 28 U.S.C.
31 § 2679(d)(1)), the United States of America ("United States") is hereby substituted for the
32 individual Defendants Justin P. Doyle, David Ballam, and Cynthia Sirk-Fear, for the claims
33 asserted by Plaintiffs against these individual Defendants under the Federal Torts Claims
34 Act ("FTCA") only. The United States is not substituted in for these individual Defendants
35 for the claims asserted against them pursuant to *Bivens v. Six Unknown Named Agents*, 403
36 U.S. 388 (1971) or other alleged constitutional violations. The grounds for this substitution
37 are as follows:

38 1. Plaintiffs' complaint alleges, in relevant part, that on August 19, 2017,
39 Plaintiffs were guests at the Oak Ridge Campground within Prince William Forest Park
40 near Triangle, Virginia, and federal law enforcement officer (National Park Service

1 Ranger) Justin Doyle committed tortious acts against them cognizable under the FTCA.
 2 (Doc. 1, at ¶¶ 8, 14, 17, 27 – 42, 44, 46, 51, 54, 60 – 68, 70).

3 2. Plaintiffs' complaint alleges that federal law enforcement officer (National
 4 Park Service Ranger) David Ballam arrived at their campsite approximately 20 minutes
 5 after Ranger Doyle, and refused to provide Plaintiff Reason a blanket or jacket. (Doc. 1,
 6 at ¶¶ 30, 45, 50). Plaintiffs allege Ranger Doyle asked Ranger Ballam to watch Plaintiffs
 7 while Ranger Doyle turned his attention elsewhere. (Doc. 1, at ¶ 49)

8 3. Plaintiffs' complaint alleges that after Plaintiff Reid complained by email to
 9 the National Park Service, Chief Ranger of Prince William Forest Park, Cynthia Sirk-Fear,
 10 contacted Plaintiff Reid by email and they subsequently spoke about the events of August
 11 19, 2017 by telephone. (Doc. 1, at ¶¶ 56 – 58).

12 4. The FTCA, 28 U.S.C. §§ 1346(b), 2671-2680, as amended by the Federal
 13 Employee's Liability Reform and Tort Compensation Act of 1988, § 5, Pub. L. No.
 14 100-694, provides that a suit against the United States shall be the exclusive remedy for
 15 persons with claims for damages resulting from the negligent or wrongful acts or omissions
 16 of federal employees taken within the scope of their office or employment. 28 U.S.C.
 17 § 2679(b)(1). The above enumerated allegations of Plaintiffs' complaint fall within this
 18 provision of the FTCA.

19 5. Section 6 of the Federal Employee's Liability Reform and Tort
 20 Compensation Act provides that upon certification by the Attorney General that a federal
 21 employee was acting within the scope of his or her office or employment at the time of the
 22 incident out of which a state law claim arises, any civil action arising out of the incident
 23 shall be deemed an action against the United States, and the United States shall be
 24 substituted as the sole defendant with respect to those claims. 28 U.S.C. § 2679(d)(1);
 25 *United States v. Smith*, 499 U.S. 160, 161-67 (1991); *Wilson v. Drake*, 87 F.3d 1073, 1077
 26 (9th Cir. 1996). The Attorney General has delegated certification authority to the United
 27 States Attorney for the District of Arizona. 28 C.F.R. § 15.4.

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1 6. Peter M. Lantka, Chief, Civil Division for the U.S. Attorney's Office,
2 Phoenix, District of Arizona, with the authority delegated to him by the United States of
3 the, Phoenix, Attorney, has certified that at the time of the conduct alleged in Plaintiffs'
4 Complaint, individual Defendants Justin P. Doyle, David Ballam, and Cynthia Sirk-Fear
5 were acting within the scope of their employment as employees of the United States,
6 through its agency, the Department of the Interior. *See* Exhibit 1, Certification of Peter M.
7 Lantka.

8 7. For the foregoing reasons, and by operation of law, the United States has
9 been substituted for individual Defendants Justin P. Doyle, David Ballam, and Cynthia
10 Sirk-Fear for the claims asserted against them in Plaintiffs' complaint under the FTCA
11 only. *Ward v. Gordon*, 999 F.2d 1399, 1401 (9th Cir. 1993). The United States is not
12 substituted in for these individual Defendants for the claims asserted against them pursuant
13 to *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971) or other alleged
14 constitutional violations.

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RESPECTFULLY SUBMITTED this 10th day of June, 2022.

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GARY M. RESTAINO
United States Attorney
District of Arizona

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s/Noel C. Capps
NOEL C. CAPPS
Assistant United States Attorney
Attorneys for Defendants

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CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2022, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal. A copy of the foregoing has also been mailed via U.S. First Class Mail and electronically transmitted by Notice of Electronic Filing to the following CM/ECF registrant(s):

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PRO SE

s/ Celestia A. Broughton
U.S. Attorney's Office